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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,965	08/27/2001	Kevin O'Rourke	2001P07803US01	5436

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EXAMINER

VEILLARD, JACQUES

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,965

Applicant(s)

O'ROURKE, KEVIN

Examiner

Jacques Veillard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-20 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's communication filed on 8/24/2004.
2. Claims 1-20 are pending and presented for examination.
3. Claims 1, 6, 7, 17 and 18 are the independent claims. Other claims are the dependent.

Priority

4. Applicant's claim for domestic priority under 35 U.S.C. 119(e) of provisional application number 60/287,275 filed on 4/27/2001, and provisional application number 60/287,644 filed on 4/30/2001 is acknowledged.

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, an RCE has been established. Applicant's submission filed on 8/24/2004 has been entered, and pursuant to 37 CFR 1.114, the finality of the previous office action has been withdrawn. An action on the RCE follows.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4-6, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Huerga et al. U. S. Pat. No. 5,903,889).

As per claim 1, de la Huerga et al. disclose a “system and method for translating collecting and archiving patient records” by providing a collecting data records having a plurality of formats and distributed on a plurality of databases on a computer network (See de la Huerga et al. title and abstract). In particular, de la Huerga et al. disclose the claimed limitations of “receiving user entered information identifying at least one patient record to be acquired and a particular section of a patient record to be acquired” by providing a data translation and collection system for receive data record from a database (See de la Huerga et al. Fig.13A, step 640, col.4, lines 40-42, col.7, lines 26-31, col.9, lines 31-36, and col.10, lines 26-28). Also, de la Huerga et al. disclose the claimed limitations of “generating a URL link for accessing a patient record repository, said generated URL link including an address of said repository and containing fields incorporating said information identifying said particular section of said patient record and said patient record” by providing a URL cipher used to generate an address to store the designated type of data (See de la Huerga et al. col.7, lines 15-17, col.8, lines 41-64, col.9, line 55 through col.10, line 17, lines 43-59).

de la Huerga et al. did not expressly show communicating said generated URL link to an application used for accessing said repository; and receiving said identified particular patient record section in response to said communication.

However, this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The communicating step would be performed the

same regardless of the URL link. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see in re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the Applicant's invention was made to communicate the generated URL link, taught by de la Huerga et al., to an application used for accessing a repository; and receiving an identified particular patient record section having any type of content in response to the communication, because such communicating does not functionally relate to the steps in the method claimed and because the subjective interpretation of the communicating does not patentably distinguish the claimed invention.

As per claim 2, most of the claimed limitations have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of wherein said particular section of said patient record is associated with a particular type of patient medical data and said receiving activity also includes, "receiving information identifying a desired format for said patient record to be acquired" (See de la Huerga et al. col.2, lines 51-55, and line 65 through col.3, line29, and col.7, lines 19-57).

As per claim 4, most of the claimed limitations have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of "generating a notification indication for display to a user

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indicating said identified particular patient record section has been received” (See de la Huerga et al. col.11, lines 54-62).

As per claim 5, most of the claimed limitations have been noted in the rejection of claim 1. Applicant’s attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of “wherein said received particular patient record section comprises HTML web page representative information”(See de la Huerga et al. Figs. 6A, 7A, 8A, 9A, and col.5, lines 30-33, lines 36-38, lines 42-44, lines 49-51).

As per claim 6, most of the claimed limitations have been noted in the rejection of claim 1. Applicant’s attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of “searching said patient record repository to locate said identified particular patient record section” (See de la Huerga et al. Fig.15A steps 804 and 820, col.7, line 64 through col.8, line16, and col.11, lines50-53). Therefore, it is rejected on similar grounds corresponding to the arguments given for the rejected claim 1 above.

As per claim 17, most of the claimed limitations have been noted in the rejection of claim 1. Applicant’s attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of “updated patient record information and patient record section identification information; and storing said updated patient record information in a record section identified by said patient record section identification information “ by modify the patient records using the URL cipher (See de la Huerga et al. col.3, lines 44-50, col.4, lines 17-20,

Fig.12B step 596 and col.8, lines 57-61, Fig.13B and col.10, lines 10-14). Therefore, it is rejected on similar grounds corresponding to the arguments given for the rejected claim 1 above.

8. Claims 7-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Huerga et al. U. S. Pat. No. 5,903,889) in view of Frid et al. (U. S. Pat. No. 5,857,967).

As per claims 7 and 18, de la Huerga et al. disclose a “system and method for translating collecting and archiving patient records” by providing a collecting data records having a plurality of formats and distributed on a plurality of databases on a computer network (See de la Huerga et al. title and abstract). In particular, de la Huerga et al. disclose also the system “for providing updated patient record information to a patient record information repository” by modify the patient records using the URL cipher (See de la Huerga et al. col.3, lines 44-50, col.4, lines 17-20, Fig.12B step 596 and col.8, lines 57-61, Fig.13B and col.10, lines 10-14). Further, de la Huerga et al. disclose the claimed limitations of “generating a URL link including an address of said repository and containing fields incorporating said updated patient record information and information identifying a particular patient record section and said patient record” by providing a URL cipher used to generate an address to store the designated type of data (See de la Huerga et al. col.7, lines 15-17, col.8, lines 41-64, col.9, line 55 through col.10, line 17, lines 43-59). Furthermore, de la Huerga et al. use an interactive display program to display the communicating said updated patient record information to said information repository at said address using said generated URL link in response to user selection of a displayed menu icon (See de la Huerga et al. col.2, line 43 through col.3, line18, and col.11, lines 6-13).

Even though, de la Huerga et al. disclose a system relates to a computer for retrieving, modifying, and storing a plurality topically, textually related data records of a plurality of formats on a plurality databases in conformance with a hypertext-linked. It is noted, however, de la Huerga et al. did not specifically disclose the system for initiating display of a data collection page for a patient; storing updated patient record information acquired by user data entry via said data collection page. On the other hand, Frid et al. achieved this claimed features by providing a universally accessible healthcare devices with on the fly generation of HTML files which allows authorized healthcare providers to display data on a page (See Frid et al. title, abstract, Fig.2, col.2, lines 48-50, col.4, lines 38-49, col.5, lines 24-43, and col.6, lines 1-6).

It would have been obvious to a person of ordinary skill in the art at the of the Applicant's invention to modify the system and method for translating, collecting and archiving patient records of de la Huerga et al. by the universally accessible healthcare devices with on the fly generation of HTML files taught by Frid et al. because Frid et al. provide a system having a communication path which provides access to the medical information using an open standard network protocol wherein HTML files may be generated on the fly in response to an HTTP command from a requesting web client in order to display the medical information of patient on a web page (See Frid et al. Fig.2 and col.5, lines 1-39).

As per claim 8, most of the claimed limitations have been noted in the rejection of claim 7. Applicant's attention is directed to the rejection of claim 7 above. In addition, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of "wherein said activity of communicating said updated patient record information comprises

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communicating said updated patient record section information via said URL data field to said information repository” (See Frid et al. col.2, lines 61-67).

As per claims 9 and 19, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “including the activity of identifying updated patient record information different from information previously communicated to said information repository; and wherein said activity of communicating said updated patient record information comprises communicating said different updated patient record information via said URL data field to said information repository” (See Frid et al. col.3, line 64 through col.4, line 13).

As per claim 10, most of the claimed limitations have been noted in the rejection of claim 7. Applicant’s attention is directed to the rejection of claim 7 above. In addition, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “wherein said data collection page comprises an HTML page” (See Frid et al. Fig.2 and col.5, lines 24-29).

As per claims 11,12, 13, and 20, most of the claimed limitations have been noted in the rejection of claims 7 and 18. Applicant’s attention is directed to the rejection of claims 7 and 18 above. In addition, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of including the activity of time-stamping updated patient record section information acquired by user data entry via said data collection page, storing time-stamped updated patient

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record section information, and communicating said time-stamped updated patient record section information (See Frid et al. col.4, lines 14-25, Fig.2, and col.5, lines 30-33).

As per claim 14, most of the claimed limitations have been noted in the rejection of claim 7. Applicant's attention is directed to the rejection of claim 7 above. In addition, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of "including the activity of communicating said identified updated data collection page by Email to a remote application in. response to user selection of a displayed menu icon" (See de la Huerga et al. col.11, lines 54-62).

As per claims 15 and 16, most of the claimed limitations have been noted in the rejection of claim 7. Applicant's attention is directed to the rejection of claim 7 above. In addition, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of "including the activity of providing a menu supporting user customization of a data collection page for a particular patient" (See de la Huerga et al. Figs 6A, 7A, 8A, 9A, 14D and corresponding text).

Allowable Subject Matter

9. Claim3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is a statement of reasons for the indication of allowable subject matter: the prior art taken alone or in combination fail to teach or suggest a method for receiving configuration information determining at least one of: (a) a URL of a patient record repository, (b) a proxy server address, (c) user logon information, (d) lists of patients to be accessed, (e) content type of a patient record and (f) format of a patient record.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


12. Evans	U. S. Pat. No. 5,924,074,
McGauley et al.	U. S. Pat. No. 5,899,998,
Doue	U. S. Pat. No. 5,361,202,
Chaco	U. S. Pat. No. 5,291,399,
Barrett et al.	U. S. Pat. No. 5,323,393, and
Wood et al.	U. S. Pat. No. 5,715,823.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (571) 272-4086. The examiner can normally be reached on Mon. to Fri. from 9 Am to 4:30 PM, alt. Fri. off..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272- 4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHARLES RONES
PRIMARY EXAMINER



Jacques Veillard
Patent Examiner TC 2100

February 4, 2005